

Approved March 9, 1987  
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at  
Chairperson

1:40 ~~am~~/p.m. on March 3, 1987 in room 531N of the Capitol.

All members were present except:

Senator Frey  
Senator Francisco  
Committee staff present:

Julian Efird - Research  
Jill Wolters - Revisor

Conferees appearing before the committee:

Senator Ross Doyen  
Lawrence T. Buening, Jr., - General Counsel, Ks. Board of Healing Arts  
Hank Booth - President of Kansas Assn. of Broadcasters  
David Furnas - Executive Director of the Kansas Press Assn.  
John Reinhart - Press Secretary, Secretary of State's Office

The Chairman called the meeting to order and introduced Senator Ross Doyen who briefly addressed the Committee on behalf of S.B. 265 which would create the Eisenhower Centennial Commission to Commemorate the centennial of the birth of Dwight D. Eisenhower. It was pointed out that the date in line 41 should be changed from 1989 to 1990.

Senator Johnston briefed the Committee concerning SB 215 on limitations of actions and relating to orders affecting licensure. There was some discussion as to the length of time that should be allowed on this.

Larry Buening spoke in opposition to SB 215 expressing concern from the Board in regard to taking action to revoke an individual's license or registration in the event that the statute of limitations have expired. He also expressed concern with abuse of patients by practitioners. He suggested a statute of limitations which would limit agency action after a period of time following the agency's discovery of the act which creates the grounds for the agency action. (Exhibit A) There was some discussion but no action was taken on this bill.

Attention was then turned to SB 280 authorizing publication of official notices by radio or television broadcast. Hank Booth spoke on behalf of this bill stating that it was only logical to use the media of radio and television in informing the public and increasing voter awareness of important local and state issues. He urged favorable consideration of SB 280 with amendments being offered by the Secretary of State. (Exhibit B) David Furnas also spoke in support of this bill but expressed some concern that the bill makes no provision for rate structures. (Exhibit C) John Reinhart stated that the Secretary of State supports the goal that SB 280 is trying to accomplish as it would recognize the influence that radio and television had on society as well allowing state and local government officials to make the fullest use of available communications technology. He presented the Committee with some amendments to consider on this bill. (Exhibit D)

The Chairman asked Hank Booth to talk with his Board regarding rates for public notice advertising as would be established in SB 280.

The Chairman then called for action on SB 88, SB 89, and SB 90. A motion was made by Senator Johnston to recommend these bills as favorable for passage. This was seconded by Senator Bogina. Motion carried.

Senator Bogina made a motion to recommend SB 125 favorable for passage. A seconded was made by Senator Winter. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,  
room 531N, Statehouse, at 1:40 ~~xxx~~ p.m. on March 3, 1987

Senator Johnston made the motion to change the date in SB 265 from 1989 to 1990 (line 41). This was seconded by Senator Bogina. Motion carried.

A motion was then made by Senator Strick to recommend SB 265 favorable for passage as amended. This was seconded by Senator Bogina. Motion carried.

Senator Hoferer made a motion to approve the minutes of the March 2nd meeting. Senator Winter seconded this. Motion carried.

The meeting was then adjourned by the Chairman at 2:30 p.m.

GUEST LIST

COMMITTEE: Senate Governmental Organization

DATE: March 3, 1987

NAME	ADDRESS	COMPANY/ORGANIZATION
David Evans	Topeka	KANSAS PRESS
John Reinhart	Topeka	Secretary of State
Harriet Laage	Topeka	KAB
Hayk Booth	Lawrence	KAB
Larry Buehling	Topeka	Bd of Licensing Act
Matt Lynch	Topeka	Federal Council
Barb Sampson	Shawnee	
Jessie Whitman	Ko. Bar Association	Topeka

TESTIMONY TO THE SENATE COMMITTEE ON GOVERNMENT ORGANIZATION

RE: SENATE BILL NO. 215

PRESENTED BY: LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
ON BEHALF OF KANSAS STATE BOARD OF HEALING ARTS

Thank you very much for the opportunity to appear before the Committee today. My remarks in opposition to SB 215 will be brief.

Since the introduction of SB 215, the Board staff has had an opportunity to review the proposed legislation with Dr. Richard Uhlig, the Secretary of the Board. Dr. Uhlig expressed concerns as to the consequences in certain cases in which the Board may be involved should the statute of limitations created by this legislation be adopted.

Regulation of the Healing Arts has undergone tremendous changes over the past 4 years. These changes have not only been in the State of Kansas but nationwide. A variety of factors have led to these changes, some of which are medical malpractice crisis, studies regarding impairment of physicians and recent discoveries that a number of purported physicians have obtained licensure using fraudulent credentials.

If the statute of limitations proposed in SB 215 be adopted, we have two areas of specific concerns. The first would be the area of fraudulent credentials. An individual may utilize forged or fraudulent credentials in order to obtain a license or a registration in the State of Kansas. That individual may never practice in Kansas and it may be some period of years before the individual is discovered as being bogus. Should the statute of limitations have expired from the date of original licensure or registration in Kansas, then it would appear that the amendment to SB 215 would preclude the Board from taking action to revoke the individual's license or registration.

The second area of concern deals with abuse of patients by practitioners. Experience has shown that these individuals, following an incident of abuse by a practitioner, require a substantial period of psychotherapy before they are able to come to grips with the situation and make a complaint against the practitioner involved. I recently attended a meeting in which the director of the Minnesota Board indicated that that Board had recently taken action against an individual for misconduct as far back as 19 years previous.

In conclusion, it is believed that administrative law presently has a statute of limitations of sorts in the form of the equitable principle of laches. This enables the aggrieved individual to raise this defense if there has been an unreasonable delay in the institution of the agency action. A possible alternative to the provisions of subsection(b) of SB 215 would be a statute of limitations which would limit agency action after a period of time following the agency's discovery of the act which creates the grounds for the agency action.

Again, I wish to express my appreciation for the opportunity to appear before this Committee. I would be happy to answer any questions you might have.





March 3, 1987

TO: MEMBERS OF SENATE GOVERNMENTAL ORGANIZATION COMMITTEE

RE: SB 280

My name is Hank Booth; I am president of the Kansas Association of Broadcasters. We appreciate the opportunity to appear before you in support of SB 280.

The intent of SB 280 is twofold: 1) to allow public officials who are required to publish legal notices, to supplement such publication with radio and/or television broadcast, if in their opinion, the public interest would be served; and 2) to require the Secretary of State to supplement publication of legal notice of proposed constitutional amendments by radio and television broadcast.

The airing of legal notices on broadcast media has been practiced in the State of Washington for over 35 years and has served the state well in informing the electorate. Information on the Washington program is attached.

SB 280 is an attempt to update the current legal notice advertising requirements by recognizing the potential the broadcast media has in reaching and informing the public. Consider this - before we sleep tonight nearly every man, woman and child will watch television, listen to the radio or most likely do both.

**PRESIDENT**  
Hank Booth  
KLWN/KLZR, Lawrence

**SECRETARY/TREASURER**  
Don Neer  
KTOP/KDVV, Topeka

**EXECUTIVE DIRECTOR**  
Harriet Lange, CAE  
KAB, Topeka

Marty Melia  
KLOE AM, Goodland

Stu Melchert  
KSCB AM/FM, Liberal

Dennis Czechanski  
KTKA TV, Topeka

**PRESIDENT-ELECT**  
John Mileham  
KWCH TV, Wichita

**PAST PRESIDENT**  
Sam Elliott  
KULY/KHUG  
Ulysess/Hugot  
KU, Lawrence

**DIRECTORS**  
Jan Elliott

Cliff Shank  
KSKU FM, Hutchinson

Wayne Grabbe  
KRSL/KCAY, Russell

Dick Painter  
WIBW AM/FM, Topeka

Harlan Reams  
KSAS TV, Wichita

That includes the business owner, the corporate executive, the entrepreneur, the college student, the government worker, the laborer, the teacher, the elected official and his or her constituents. We are everywhere and we touch the lives of every person in this state everyday. It seems only logical that our media be used, in addition to newspapers, in informing the public and increasing voter awareness of important local and state issues.

The KAB represents over 100 radio stations and 19 television stations in Kansas. We urge your favorable consideration of SB 280, with amendments being offered by the Secretary of State.

LEGAL NOTICE ADVERTISING  
IN WASHINGTON STATE

A. General Description

Washington State was the first state, and still one of the few, that provides for state or other public officers advertising by radio and/or television for legal public notices. In general the public officer may advertise on radio and/or television if he is first required by law to publish a legal notice in a newspaper. He may then supplement such published newspaper notice by having the information broadcast. The public official may do so if in his judgment the public interest will be served by such broadcast. The frequency of broadcast is left to the discretion of the public official.

Often times public officials are disappointed by public apathy primarily because the public has not been made aware of a public hearing in which a vital matter is to be discussed. Public awareness and participation can be stimulated by the use of radio and/or television announcements.

B. Background

The enabling legislation originated in the year 1951. At that time the law provided for only radio advertising and it was discretionary with the public official as to whether any such legal notice advertising would be used.

In 1961 the state law was amended to include television advertising. In the same year it was made mandatory for the Secretary of State to use radio and television to supplement legal notice publication of proposed constitutional amendments that were to be placed on the ballot before the general election in this state. Other than constitutional amendments, legal notice advertising by other state officials continued to be discretionary with the public official.

In 1967 the legislature expanded the mandatory use to include laws authorizing state debts in addition to constitutional amendments. The purpose of that amendment was to include state wide bond issues that are approved by the voters. The amount of money allocated for the mandatory advertising by the Secretary of State

is discretionary and is negotiated by WSAB with the Secretary of State's office.

C. Who Can Use Public Notice Advertising and With What Frequency

As stated above the Secretary of State must broadcast on radio and television notice of the proposed constitutional amendments and laws authorizing state debts that are to be submitted to the people by state wide ballot. Any other state or local official who is required by law to publish any official notice in a newspaper has the discretion to supplement the notice by radio and/or television if in his judgment the public interest would thereby be served.

Examples of such public officers would be city officials, school district officials, county officials, irrigation district officials, sewer district officials, and any other officials of political subdivisions of the state.

The number of announcements that the official may advertise on broadcasting facilities is discretionary with the official.

D. Which Stations May be Used

The public official may select any radio and/or television station he finds in his judgment will best serve the public interest. There is a requirement that the stations utilized be situated within the county of origin of the broadcast notice.

E. What Kind of Materials Are Best Suited

Notices of elections, meetings, hearings and other functions of state and local government can be effectively served by the use of radio and/or television. It would appear that long legal descriptions of property might confuse more than help and that general descriptions are better. Notices or a concise summary or description may be broadcast at such times and with such frequency as is determined suitable when the public interest is served thereby.

Approaches that have been used in the past by the Secretary of State in the case of constitutional amendments for state wide ballot have included such films as



one opening with a picture of the state capitol, than to the state legislature in process, a depiction of the State Voters' Pamphlet, a picture of the proposed constitutional amendment itself, and closing with a picture of the great seal of the State of Washington. The audio portion announced that on the ballot there would be a constitutional amendment to the state constitution, setting forth that it took a two-thirds vote of the legislature to place the matter on the ballot, then stating a brief description of the proposed constitutional amendment itself and closed with urging the voters to vote on election day.

#### F. Applicable Rates

Rates charged for public notice advertising will be the same as if the order was from any commercial advertiser whose advertising is directed to promoting its business within the same area as that which the notice is placed. Earned frequency discounts would be entirely proper.

#### G. Mandatory Contents and Sponsor Identification

The state law requires that the time, place and nature of such notice only be read or shown with no reference to any person by name than a candidate for political office and that such broadcast shall be made only by duly employed personnel of the station from which said broadcast emanates.

Of course FCC regulations require that the sponsor be identified in the announcement. The announcement need not say "paid for" as part of the identification. The following identification was approved by the FCC in the case of advertising by the Secretary of State of the State of Washington: "This has been an official announcement as provided by law by the Secretary of State, John Doe." Note, that in an election year for a political candidate, the title of his office should be used in the sponsor identification, but his name may not be used.

#### H. Illustration of Typical Legal Notice Address

##### NOTICE OF REZONE HEARING

This notice is to advise you of a public hearing to be held in Edmonds, Washington, before the Edmonds Planning Commission. The meeting will be held on Tuesday, April 13, 1968, at 8 o'clock P.M. in the Civic Center at a public hearing. It will afford persons interested in a proposed re-zoning and the general public an

opportunity to be heard for or against a proposal to re-zone property located in the "Five Corners" area on the northeast intersection of Main Street and Fifth Street S.E. The property is legally referred to as the Plat of Morning Side Addition. The proposed re-zoning is from single family residential zoning to commercial zoning. This notice of this public hearing reminds you that such hearing will be held on Tuesday, April 13, 1968, at 8 o'clock P.M. in the Edmonds Civic Center. This notice is an official announcement as provided by law by the City of Edmonds, Irene Jones, City Clerk.

#### I. Record Retention and Affidavits of Performance

The state law requires that the broadcaster retain an exact copy or transcription of the text of the announcement for a period of six months after the last announcement.

Proof of publication must be supplied by affidavit of performance, signed by the (1) manager, (2) assistant manager or (3) program director.

#### J. Applicable State Statutes

The applicable state statutes are set forth as follows. They are relatively simple in form and you should be able to find the answers to most of your questions, if not previously supplied, by reviewing those statutes:

RCW 65.16.130 Publication of official notices by radio or television - Restrictions. Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement publication thereof by radio or television broadcast or both when, in his judgment, the public interest will be served thereby: Provided, That the time, place and nature of such notice only be read or shown with no reference to any person by name then a candidate for political office, and that such broadcasts shall be made only by duly employed personnel of the station from which such broadcasts emanate, and that notices by political subdivisions may be made only by stations situated within the county of origin of the legal notice.

RCW 65.16.140 Broadcaster to retain copy of transcription. Each radio or television station broadcasting any legal notice or notice of event shall for a period of six months subsequent to such broadcast retain at its office a copy or transcription of the text of the notice

as actually broadcast which shall be available for public inspection.

RCW 65.16.150 Proof of publication by radio or television. Proof of publication of legal notice or notice of event by radio or television broadcast shall be by affidavit of the manager, an assistant manager or a program director of the station broadcasting the same.

RCW 29.27.072 Notice of constitutional amendments and laws authorizing state debts - Publication in newspapers and on radio and television. The secretary of state shall cause notice of the proposed constitutional amendments and laws authorizing state debts that are to be submitted to the people to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state and shall supplement publication thereof by radio and television broadcast as provided in RCW 65.16.130, 65.16.140, and 65.16.150.

RCW 29.27.074 Contents. The notice provided for in RCW 29.27.072 shall set forth the following information:

- (1) A legal identification of the state measure to be voted upon.
- (2) The official ballot title of such state measure.
- (3) A brief statement explaining the constitutional provision or state law as it presently exists.
- (4) A brief statement explaining the effect of the state measure should it be approved.
- (5) The total number of votes cast for an against the measure in both the state senate and house of representatives.



**Kansas Press Association**  
**Kansas Press Service, Inc.**

P.O. Box 1773 • Topeka Kansas 66601 (214 W. Sixth Suite 300) • 913/233-7421

Testimony on  
Senate Bill 280  
Senate Committee on Governmental Organization  
March 3, 1987

Mr. Chairman and members of the committee, my name is David Furnas and I am the executive director of the Kansas Press Association.

The Kansas Press Association, which is very familiar with the required publication of public notice in newspapers, has not taken a formal position of Senate Bill 280, which would authorize broadcast of official notices by radio or television.

In my conversations with KPA members, however, I am finding wide support for this concept. Predicting what our membership will do on policy matters is much like predicting what the legislature will do. But, if you will allow me, I would guess that the association's legislative committee, which meets March 12, will recommend support of the concept contained in Senate Bill 280 and, in turn, the KPA Board of Directors will adopt such a policy at its Board meeting April 2.

At first, some observers might be surprised by this support. Upon reflection, the reasons are obvious. The Press Association and its members support the widest possible dissemination of information about government as possible. Supplemental dissemination of public notices by radio and television would further that goal.

Interestingly, Senate Bill 280, if adopted in its present form, would also establish policy and possible legal precedents of interest to newspapers that have been the official media of legal notices.

For example, the bill makes no provision for rate structures which have been a thorn to newspapers for years. The bill, relating to the mandatory broadcast of constitutional amendments, appears to require broadcast on every radio and television station in the state. At present, constitutional amendment legal publications are published in only one newspaper in each county. This implied change in policy is of great interest to the more than 150 newspapers that did not have the opportunity to be paid for publishing the constitutional amendment legals in 1986.

I would be remiss not to relate to the committee that some newspaper publishers scoff at this bill. The lack of a rate structure, the lack of provisions for when the legals would be broadcast, the lack of provisions on what type of audience selection for supplemental broadcasts and the method of proof of broadcast and public inspection are suspect to some publishers.

Still, underlying these reservations, most of the KPA members with whom I have discussed this bill, support the concept of greater public notice.



Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

TESTIMONY OF JOHN REINHART,  
OFFICE OF THE SECRETARY OF STATE,  
TO THE GOVERNMENTAL ORGANIZATION COMMITTEE  
ON SENATE BILL 280  
MARCH 3, 1987

Secretary of State Bill Graves supports the goal that Senate Bill 280 is attempting to accomplish.

By permitting legal advertisements on radio and television, the legislature is recognizing the influence of these media on our society as well as allowing state and local government officials to make the fullest use of available communications technology. We believe Senate Bill 280 is a step toward a better informed, better educated electorate.

Attached to my written remarks are some amendments we would like the committee to consider. The amendment to section one is technical in nature. It clarifies the prohibition against public officials appearing or speaking in such legal notices if they are a candidate for office.

Most of section three has been deleted because section one already limits the content of the notices to "the time, place and nature of such notice."

We have reviewed these amendments with representatives of the Kansas Broadcasting Association, and they find the amendments satisfactory.

With the adoption of appropriate amendments, we would urge the committee to recommend favorable passage of Senate Bill 280.



0017 AN ACT authorizing publication of official notices by radio or  
0018 television broadcast.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. Any official of the state or any of its political  
0021 subdivisions who is required by law to publish any notice  
0022 required by law may supplement publication thereof by radio or  
0023 television broadcast, or both, when such official determines the  
0024 public interest will be served thereby, except that the time, place  
0025 and nature of such notice only shall be read or shown and no  
0026 reference shall be made to any person by name who is at the time  
0027 of notice a candidate for political office. Such broadcasts shall be  
0028 made only by duly employed personnel of the station from which  
0029 such broadcasts emanate, and notices by political subdivisions  
0030 may be made only by stations situated within the county of origin  
0031 of the legal notice.

0032 Sec. 2. (a) Each radio or television station broadcasting any  
0033 legal notice or notice of event shall for a period of six months  
0034 subsequent to such broadcast retain at its office a copy or tran-  
0035 scription of the text of the notice as actually broadcast which  
0036 shall be available for public inspection.

0037 (b) Proof of publication of legal notice or notice of event by  
0038 radio or television broadcast shall be by affidavit of the manager,  
0039 an assistant manager or a program director of the station broad-  
0040 casting the same.

0041 Sec. 3. (a) The secretary of state shall supplement publica-  
0042 tion of legal notice of proposed constitutional amendments by  
0043 radio and television broadcast as provided under section 1.

0044 (b) ~~The notice provided for in subsection (a) shall set forth~~  
0045 ~~the following information:~~

0046 ~~(1) A legal identification of the constitutional amendment to~~  
0047 ~~be voted upon;~~

0048 ~~(2) the official ballot title of such constitutional amendment;~~

0049 ~~(3) a brief statement explaining the constitutional provision~~  
0050 ~~as it presently exists;~~

0051 ~~(4) a brief statement explaining the effect of the constitu-~~  
0052 ~~tional amendment should it be approved, and~~

0053 ~~(5) the total number of votes cast for and against the consti-~~  
0054 ~~tutional amendment in both the state senate and house of repre-~~  
0055 ~~sentatives.~~

0056 Sec. 4. This act shall take effect and be in force from and  
0057 after its publication in the statute book.

office, and such person shall not be seen or heard in the broadcast.